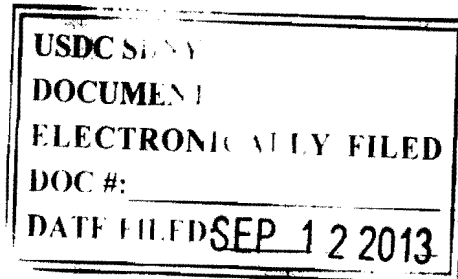


STROOCK



September 11, 2013

By Email

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The Honorable Katherine B. Forrest
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 730
New York, NY 10007-1581

Re: In re: 650 Fifth Avenue and Related Properties
08 CIV. 10934 (KBF) and All Member and Related Cases

Dear Judge Forrest:

We represent the Greenbaum, Acosta, Beer and Kirschenbaum judgment creditors and write to seek clarification concerning the proper procedure for Fifth Amendment invocation questions in the Judgment Creditors' bench trial and the Court's order of today's date.

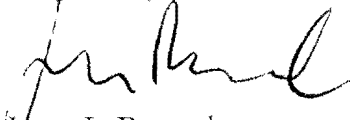
The Court's concern regarding possible jury confusion does not apply to the bench trial, and we therefore respectfully submit that the following procedure should apply to the Judgment Creditors' bench trial.

We propose that for each witness called who invokes the Fifth Amendment that the Judgment Creditors be permitted to ask each witness no more than 20 questions outside the presence of the jury and that each witness's deposition testimony, along with the exhibits reflecting the questions posed to the witness, be introduced into evidence in the bench trial. The Court's concern that a "jury [might] confuse the questions for testimony or evidence" (emphasis in original) clearly does not apply to the Court, and having a numerical limitation of 20 questions will enable the Judgment Creditors to plan

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accordingly in advance of trial. By introducing the deposition testimony into evidence, the Judgment Creditors will be able to use, as a back-up and as necessary, those questions and thus reduce the amount of time each witness needs to testify. References and citations to specific questions from the depositions can be made, as needed, in the final Proposed Findings of Fact and Conclusions of Law, and specific objections, if any, to a question can be addressed by the Court at that time and in that context. Of course, we will continue to coordinate with the Government regarding the formation of Fifth Amendment invocation questions in the jury trial, but because the balancing of concerns the Court identified does not apply to the bench trial, we respectfully request the additional relief sought herein.

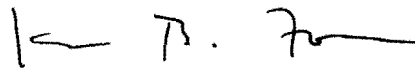
Respectfully submitted,



James L. Bernard

cc: Counsel of Record

ordered
Application granted.

9/12/13 
USDJ